HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.369 OF 2007

Between:

P.Santhosh

. . .Appellant

AND

The Joint Collector, Adilabad and others

. . .Respondents

:: JUDGMENT ::

Counsel for the appellant : Shri Purushotham Reddy
for Shri H.Venugopal

Counsel for respondents No.1 to 3: Government Pleader for Revenue

Counsel for respondent Nos.4 & 5: Shri Mohammad Rahaid Ahmad

6th August, 2007

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Per G.S.SINGHVI, CJ

Feeling aggrieved by refusal of the learned Single Judge to stay his dispossession from Ac.5-50 cts. land comprised in Survey No.42/1 and Ac.1-50 cts. comprised in Survey No.43/2 of Chinna Siddapur, Bejjur Village and Mandal, Adilabad District (hereinafter referred to as 'the subject land'), the appellant has preferred this appeal under Clause 15 of the Letters Patent.

The appellant claims to have purchased the subject land from respondent No.4 – Kavude Mondi through ordinary sale-deeds dated 9.10.1998 and 4.2.2000. He further claims that after purchase, respondent No.4 put him in possession of the subject land and since then he is cultivating the land. The appellant presented the sale-deeds before Mandal Revenue Officer, Bejjur (respondent No.3) for mutation of the name in the revenue records. The latter, after making necessary enquiry and collecting the stamp duty, mutated the appellant's name in the revenue record vide proceedings No.RoR/1/2006 and, on that basis, title deed and pattadar passbooks were issued in the appellant's favour.

Respondent No.4 challenged the action of respondent No.3 to facilitate mutation of the appellant's name by filing an appeal. Sub-Collector and Sub-Divisional Magistrate, Asifabad (respondent No.2) vide his order dated 5.2.2007 allowed the appeal and set aside Form-13 (B) and 13 (C) issued by respondent No.3 in favour of the appellant. He then filed revision, which is pending adjudication before Joint Collector, Adilabad (respondent No.1). Respondent No.1 admitted the revision on 7.3.2007, but declined the appellant's prayer

for interim stay.

The appellant questioned the rejection of his prayer for stay in Writ Petition No.5211 of 2007. The learned Single Judge dismissed the same by observing that there is no direction by respondent No.2 for handing over possession of the property to respondent No.4 and, therefore, the revisional authority did not commit any illegality by declining his prayer for stay.

Shri Purushotham Reddy appearing for Shri H. Venugopal, learned counsel for the appellant invited our attention to order dated 5.2.2007 passed by respondent No.2 to show that the officer concerned had given specific direction to respondent No.3 to put respondent No.4 in possession of the subject land under proper panchanama and report compliance within two days and submitted that the premise on which the learned Single Judge dismissed the writ petition must be treated as wholly erroneous and respondent Nos. 4 and 5 be directed not to interfere with his client's possession till the disposal of the revision petition filed against order dated 5.2.2007.

The learned Government Pleader for Revenue fairly conceded that respondent No.2 did direct respondent No.3 to put respondent No.4 in possession, but counsel appearing for respondent Nos. 4 and 5 emphasised that the said direction is superfluous and inconsequential because the appellant was never in possession. He submitted that mere admission of revision petition by respondent No.1 cannot justify grant of stay in favour of the appellant and the learned Single Judge did not commit any error by refusing to interfere with the discretion exercised by the said respondent not to grant interim relief in terms of the prayer made by the appellant.

We have given serious thought to the entire matter. A reading of the order under challenge makes it clear that the learned Single Judge declined the appellant's prayer for issue of a direction to the

respondents not to dispossess him primarily on the ground that respondent No.2 did not direct respondent No.3 to put respondent No.4 in possession. It appears to us that the attention of the learned Single Judge was not adequately drawn to the note recorded in order dated 5.2.2007 whereby respondent No.2 unequivocally directed respondent No.3 to put respondent No.4 in possession, else, the order under challenge may not have been passed.

In our opinion, the direction by respondent No.2 to respondent No.3 implies that the appellant was in possession of the subject land as on 5.2.2007. If he is dispossessed during the pendency of the revision petition, the appellant is bound to suffer irreparable loss. The element of balance of convenience is also in favour of the appellant because, while he has categorically pleaded that he is in cultivating possession of the land for more than 16 years, respondent Nos.4 and 5 have not placed anything before the Court to controvert the same.

In the result, the appeal is allowed. The order of the learned Single Judge is set aside. Respondent No.1 is directed to dispose of the revision petition within three months. Till then, the parties shall maintain status quo in respect of the subject land.

As a sequel to allowing the appeal, WAMP No.698 of 2007 filed by the appellant for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

6th August, 2007

C.V.NAGARJUNA REDDY, J

svs